

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101
Prepared by: Bradley Swing, AICP, Planner II

SUBJECT: Ordinance 1st Reading/Quasi-judicial
ZB(TXT) 6-1-04, Signs

AFFECTED DISTRICT: Townwide

TITLE OF AGENDA ITEM: AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SECTION 12-503 AND 12-238 THEREOF RELATING TO DEFINITIONS AND GENERAL REGULATIONS; PROVIDING FOR A NON-COMMERCIAL SIGN EXEMPTION; PERMIT APPLICATION AND APPEAL PROCEDURES; SEVERABILITY; INCLUSION IN THE TOWN CODE; AND AN EFFECTIVE DATE.

REPORT IN BRIEF: On January, 5, 2004, Town Council held a workshop meeting to address issues related to signs and billboards in the Town. As a result of the proposed billboard ordinance to permit additional billboards in the Town, Michael Burke, Esq., Special Council for the Town of Davie was asked to prepare an ordinance to strengthen the Town's Sign Code. Mr. Burke prepared the attached ordinance to address constitutional issues regarding the validity of the Code and improve the Town's ability to defend the Sign Code in the event a constitutional challenge is made against it.

The following summarizes revisions to the Land Development Code included in the proposed Ordinance.

Definitions: The definition for *Non-Commercial Copy and Sign, Non-Commercial* shall be added to Section 12-503 of the Land Development Code. The definition of *Sign, off-site or off-premise* is revised.

Exceptions from Building Permits: A building permit shall not be required for a non-commercial sign located in a residentially zoned district not exceeding two (2) square feet in area and three (3) feet in height. No illumination of the sign shall be permitted.

Sign Review Criteria: All sign applications shall be submitted to and reviewed by the development services department. If the application demonstrates that the proposed sign meets the requirements of this section for an authorized sign, the application shall be approved and the permit shall issue. Otherwise, the application shall be denied.

Sign Permit Application: An application for a sign permit shall be made on a form provided by the development services department and shall contain information on location, position, design, size and colors of the sign. When the application is for a directional sign, plans shall

indicate the location of off-street parking facilities, including major points of ingress and egress for motor vehicles. The application shall include the sizes and dimensions of all other signs existing on the property upon which the proposed sign is to be located.

Time for determining a sign permit application; Appeals: The development services department shall render a final and appealable written determination on a sign permit application within thirty (30) days from the date such application is filed with the department. In the event that the development services department fails to timely render such a final determination on a sign permit application, the applicant may erect and maintain the sign proposed in the application until such time as such application may be denied and all appeals, if any, are exhausted. If any citizen wishes to appeal any final written determination regarding a sign permit application, such appeal shall be made in writing and filed with the Town Council within thirty (30) days from the date of the final written determination being appealed. The Town Council shall hear and determine the appeal of the applicant within thirty (30) days of the City Clerk's receipt of the appeal or the decision of the development services department shall be deemed to be reversed. The decision of the Town Council is final.

Severability: It is the specific intent of the Town of Davie that each provision of this Code shall stand alone and operate independently of any other provision herein. If any section, subsection, sentence, phrase, or portion of this Code is declared invalid for any reason, it is specifically declared by the Town of Davie that such section, subsection, sentence, phrase or portion is separate, distinct, and independent of all other sections, subsections, sentences, phrases, or portions of this Code all other provisions are intended to remain valid.

The proposed amendments to the sign code are attached. Staff recommends approval of the proposed amendments to the sign regulations of the Town's Land Development Code.

PREVIOUS ACTIONS: None

CONCURRENCES: At the June 23, 2003, Local Planning Agency meeting, Mr. Stevens made a motion, seconded by Mr. McLaughlin, to approve. Motion carried 4-0 with Ms. Lee absent.

FISCAL IMPACT: None

RECOMMENDATION(S): Staff recommends that Town Council approve the Ordinance.

Attachment(s): Ordinance

ORDINANCE _____

AN ORDINANCE OF THE TOWN OF DAVIE, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE, CHAPTER 12, ARTICLE VIII, SECTION 12-503 AND 12-238 THEREOF RELATING TO DEFINITIONS AND GENERAL REGULATIONS; PROVIDING FOR A NON-COMMERCIAL SIGN EXEMPTION; PERMIT APPLICATION AND APPEAL PROCEDURES; SEVERABILITY; INCLUSION IN THE TOWN CODE; AND AN EFFECTIVE DATE.

WHEREAS, the Town Council of the Town of Davie desires to amend the Land Development Code to address constitutional issues regarding the validity of the Code;

WHEREAS, the amendments contained herein are intended to clarify the provisions of the Code;

WHEREAS, notice was given and publication made as required by law, and a public hearing there under was held on the date of the adoption of this ordinance.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF DAVIE, FLORIDA.

SECTION 1. That the following additions be inserted alphabetically in to Section 12-503 of the Town Code:

Non-Commercial Copy. Any message which does not promote a business or the sale of any product, service or activity. Examples include messages regarding political, social or environmental matters.

Sign, Non Commercial. A sign which contains only non-commercial copy.

SECTION 2. That the following amendments be made to Section 12-503:

Sign, off-site or off-premise. A sign that is not located on the same property as the establishment that the sign's message pertains to, or where the product, service or activity is not present, or where the message does not pertain to the use of

their site. A sign which contains only Non-Commercial Copy shall not constitute an off-site or off-premise sign.

Sign, on-site or on-premise. A sign that is located on the same property as the establishment that the sign's message pertains to, or where the product, service or activity is present, or where the message pertains to the uses of the site upon which the sign is located. A sign which contains only Non-Commercial Copy shall be deemed to constitute an on-site or on-premise sign.

SECTION 3. That the following amendment be inserted into Section 12-238(C):

- (14) A non-commercial sign located in a residentially zoned district not exceeding two (2) square feet in area and three (3) feet in height. No illumination of the sign shall be permitted.

SECTION 4: That the following amendments be inserted into the Code as Section 12-238(R):

- (1) *Sign Review Criteria.* All sign applications (application are not required for those signs not requiring permits as noted herein), shall be submitted to and reviewed by the development services department. If the application demonstrates that the proposed sign meets the requirements of this section for an authorized sign, the application shall be approved and the permit shall issue. Otherwise, the application shall be denied.
- (2) *Sign Permit Application.* Application for a sign permit shall be made on a form provided by the development services department and shall set forth and contain the following information and material:
- (a) Two (2) copies of a plan showing:
- i. The location and size of any building or structures, both existing and proposed, on the property proposed as the location of the sign.
- ii. The position of the proposed sign and its relation to adjacent buildings and structures.

iii. The design and size, colors proposed, and proposed location of the sign or sign structure on the property.

iv. When the application is for a directional sign, plans shall indicate the location of off-street parking facilities, including major points of ingress and egress for motor vehicles.

v. The sizes and dimensions of all other signs existing on the property upon which the proposed sign is to be located.

(b) Such other information as the development services department may reasonably require to secure compliance with this and other applicable ordinances.

(3) Appeals. Time for determining a sign permit application; Appeals. The development services department shall render a final and appealable written determination on a sign permit application within thirty (30) days from the date such application is filed with the department. In the event that the development services department fails to timely render such a final determination on a sign permit application, the applicant may erect and maintain the sign proposed in the application until such time as such application is denied and all appeals, if any, are exhausted. If any citizen wishes to appeal any final written determination regarding a sign permit application, such appeal shall be made in writing and filed with the Town Council within thirty (30) days from the date of the final written determination being appealed. The Town Council shall hear and determine the appeal of the applicant within thirty (30) days of the Town Clerk's receipt of the appeal or the decision of the development services department shall be deemed to be reversed. The decision of the Town Council is final.

SECTION 5: The following Section 12-237.5 be enacted as follows:

It is the specific intent of the Town of Davie that each provision of this Code shall stand alone and operate independently of any other provision herein. If any section, subsection, sentence, phrase, or portion of this Code is declared invalid for any reason, it is specifically declared by the Town of Davie that such section, subsection, sentence, phrase or portion is separate, distinct, and independent of all other sections, subsections, sentences, phrases, or portions of this Code all other provisions are intended to remain valid.

SECTION 6. All Ordinances or parts of Ordinances in conflict herewith are to the extent of such conflict hereby repealed.

SECTION 7. If any section, subsection, sentence, clause, phrase, portion of this Ordinance is, for any reason, held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portion of this Ordinance.

SECTION 8. This ordinance shall take effect immediately upon its passage and adoption.

PASSED ON FIRST READING THIS ____ DAY OF _____, 2004

PASSED ON SECOND READING THIS ____ DAY OF _____, 2004

MAYOR/COUNCILMEMBER

ATTEST:

TOWN CLERK

APPROVED THIS _____ DAY OF _____, 2004